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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/27/2019	.	
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The Committee on Community Affairs (Lee) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Present subsection (10) of section 212.055,  
Florida Statutes, is redesignated as subsection (11) and  
amended, a new subsection (10) is added to that section, and  
paragraph (c) of subsection (1), paragraph (b) of subsection  
(5), and paragraph (b) of subsection (8) are amended, to read:

212.055 Discretionary sales surtaxes; legislative intent;



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11 authorization and use of proceeds.—It is the legislative intent  
12 that any authorization for imposition of a discretionary sales  
13 surtax shall be published in the Florida Statutes as a  
14 subsection of this section, irrespective of the duration of the  
15 levy. Each enactment shall specify the types of counties  
16 authorized to levy; the rate or rates which may be imposed; the  
17 maximum length of time the surtax may be imposed, if any; the  
18 procedure which must be followed to secure voter approval, if  
19 required; the purpose for which the proceeds may be expended;  
20 and such other requirements as the Legislature may provide.  
21 Taxable transactions and administrative procedures shall be as  
22 provided in s. 212.054.

23 (1) CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM  
24 SURTAX.—

25 (c) 1. The proposal to adopt a discretionary sales surtax as  
26 provided in this subsection and to create a trust fund within  
27 the county accounts shall be placed on the ballot in accordance  
28 with law and must be approved in a referendum held at a general  
29 election in accordance with subsection (10) at a time to be set  
30 at the discretion of the governing body.

31 2. If the proposal to adopt a surtax is by initiative, the  
32 petition sponsor must, at least 180 days before the proposed  
33 referendum, comply with all of the following:

34 a. Obtain an independent written legal opinion from an  
35 attorney who is a member in good standing of The Florida Bar  
36 which verifies that the proposed referendum complies with state  
37 law, and provide the proposed referendum and legal opinion to  
38 the governing body of the county. The county shall make the  
39 proposed referendum and legal opinion available on its official



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40 website.

41 b. Provide a copy of the final resolution or ordinance to  
42 the Office of Program Policy Analysis and Government  
43 Accountability. The Office of Program Policy Analysis and  
44 Government Accountability shall procure a certified public  
45 accountant in accordance with subsection (10) for the  
46 performance audit.

47 c. File the initiative petition and its required valid  
48 signatures with the supervisor of elections. The supervisor of  
49 elections shall verify signatures and retain signature forms in  
50 the same manner as required for initiatives under s. 100.371(3).

51 3. The failure of an initiative sponsor to comply with the  
52 requirements of subparagraph 2. renders any referendum held  
53 void.

54 (5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in  
55 s. 125.011(1) may levy the surtax authorized in this subsection  
56 pursuant to an ordinance either approved by extraordinary vote  
57 of the county commission or conditioned to take effect only upon  
58 approval by a majority vote of the electors of the county voting  
59 in a referendum. In a county as defined in s. 125.011(1), for  
60 the purposes of this subsection, “county public general  
61 hospital” means a general hospital as defined in s. 395.002  
62 which is owned, operated, maintained, or governed by the county  
63 or its agency, authority, or public health trust.

64 (b) If the ordinance is conditioned on a referendum, the  
65 proposal to adopt the county public hospital surtax shall be  
66 placed on the ballot in accordance with subsection (10) ~~law at a~~  
67 ~~time to be set at the discretion of the governing body.~~ The  
68 referendum question on the ballot shall include a brief general



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69 description of the health care services to be funded by the  
70 surtax.

71 (8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

72 (b) Upon the adoption of the ordinance, the levy of the  
73 surtax must be placed on the ballot by the governing authority  
74 of the county enacting the ordinance. The ordinance will take  
75 effect if approved by a majority of the electors of the county  
76 voting in a referendum held for such purpose. The referendum  
77 shall be placed on the ballot of a general ~~regularly scheduled~~  
78 election. The ballot for the referendum must conform to the  
79 requirements of s. 101.161.

80 (10) DATES FOR REFERENDA.—A referendum to adopt or amend a  
81 local government discretionary sales surtax under this section  
82 must be held at a general election as defined in s. 97.021.

83 (11) ~~(10)~~ PERFORMANCE AUDIT.—

84 (a) ~~For any referendum held on or after March 23, 2018, To~~  
85 adopt a discretionary sales surtax under this section, an  
86 independent certified public accountant licensed pursuant to  
87 chapter 473 shall conduct a performance audit of the program  
88 associated with the proposed surtax ~~adoption proposed by the~~  
89 ~~county or school district.~~

90 (b)1. At least 180 days before the referendum is held, the  
91 county or school district shall provide a copy of the final  
92 resolution or ordinance to the Office of Program Policy Analysis  
93 and Government Accountability.

94 2. Within 30 days after receiving the final resolution or  
95 ordinance, the Office of Program Policy Analysis and Government  
96 Accountability shall procure the certified public accountant and  
97 may use carryforward funds to pay for the services of the



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98 certified public accountant.

99 ~~3.(b)~~ At least 60 days before the referendum is held, the  
100 performance audit must ~~shall~~ be completed and the audit report,  
101 including any findings, recommendations, or other accompanying  
102 documents, must ~~shall~~ be made available on the official website  
103 of the county or school district.

104 4. The county or school district shall keep the information  
105 on its website for 2 years from the date it was posted.

106 5. The failure to comply with the requirements under  
107 subparagraph 1. or subparagraph 3. renders any referendum held  
108 to adopt a discretionary sales surtax void.

109 (c) For purposes of this subsection, the term "performance  
110 audit" means an examination of the program conducted according  
111 to applicable government auditing standards or auditing and  
112 evaluation standards of other appropriate authoritative bodies.  
113 At a minimum, a performance audit must include an examination of  
114 issues related to the following:

115 1. The economy, efficiency, or effectiveness of the  
116 program.

117 2. The structure or design of the program to accomplish its  
118 goals and objectives.

119 3. Alternative methods of providing program services or  
120 products.

121 4. Goals, objectives, and performance measures used by the  
122 program to monitor and report program accomplishments.

123 5. The accuracy or adequacy of public documents, reports,  
124 and requests prepared by the county or school district which  
125 relate to the program.

126 6. Compliance of the program with appropriate policies,



127 rules, and laws.

128 (d) This subsection does not apply to a referendum held to  
129 adopt the same discretionary surtax that was in place during the  
130 month of December immediately before the date of the referendum.

131 Section 2. This act shall take effect October 1, 2019.

132

133 ===== T I T L E A M E N D M E N T =====

134 And the title is amended as follows:

135 Delete everything before the enacting clause  
136 and insert:

137

A bill to be entitled

138

An act relating to discretionary sales surtaxes;  
139 amending s. 212.055, F.S.; providing that a referendum  
140 to adopt or amend a local discretionary sales surtax  
141 must be held at a general election; requiring a  
142 petition sponsor of an initiative to adopt a charter  
143 county and regional transportation system surtax to  
144 comply with specified requirements within a specified  
145 timeframe before the proposed referendum; requiring a  
146 county to make the proposed referendum and a specified  
147 legal opinion available on its official website;  
148 requiring the Office of Program Policy Analysis and  
149 Government Accountability, upon receiving a certain  
150 notice, to procure a certified public accountant for a  
151 performance audit; requiring a supervisor of elections  
152 to verify petition signatures and retain signature  
153 forms in a specified manner; providing that an  
154 initiative sponsor's failure to comply with the  
155 specified requirements renders any referendum held



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156 void; revising requirements and procedures for  
157 counties, school districts, and the office relating to  
158 performance audits; providing that the failure to  
159 comply with certain requirements renders any  
160 referendum held to adopt a discretionary sales surtax  
161 void; providing an effective date.